

**Consideration for recommendation of approval for preliminary adoption of amendments to 312 IAC 9 governing the possession limits of wild animals that are lawfully taken; Administrative Cause No. 11-053D**

The Divisions of Law Enforcement and Fish and Wildlife are proposing amendments to several rules in 312 IAC 9 to clarify that harvested wild animals that are processed and retained at the individual's permanent residence are no longer considered part of the possession limit for that wild animal. For example, carcasses of squirrels that are skinned and located in the individual's freezer at their permanent residence would no longer be considered to be part of that individual's possession limit for squirrels.

Currently, there are different interpretations about whether or not the possession limit of a wild animal applies to packaged meat or filets wrapped and located in a person's freezer in his/her home. The Division of Law Enforcement established a committee to review this issue and develop recommendations. Officers have also reviewed other state's laws relative to possession limits, and several other states either already have or are in the process of changing their laws to clarify when the possession limit applies.

Therefore, the DNR is proposing to exempt wild animals (including fish) that have been processed, as defined in 312 IAC 9-1-12.5, and stored at the individual's permanent residence, as defined in 312 IAC 9-1-11.8, from the possession limit for that species of animal. The DNR has also modified the definition of "possession" in 312 IAC 9-1-12 to deal with various interpretations of "possession" of both live and dead animals. Since limits for white-tailed deer and wild turkeys are established by season, an exemption is provided in 312 IAC 9-2-8(b).

The changes to 312 IAC 9-5-6 governing the collection and possession of reptiles and amphibians are needed to clarify the daily bag limit and possession limits for these species. This rule currently states that a person can take and possess no more than 4 of most species of reptiles and amphibians, but it does not specify live or dead and does not establish a taking period (season) for species other than bullfrogs and green frogs. Therefore, the DNR is proposing a 365-day taking period (season) to match the license year (a hunting or fishing license is required to take them from the wild) and make the limit 4 per year (April 1 of one year through March 31 of the following year).

The DNR is requesting approval of these rule changes for consideration for preliminary adoption by the Natural Resources Commission.

**DRAFT 04/4/11**

**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**  
LSA Document #11-

**DIGEST**

Adds 312 IAC 9-1-11.8 to define a permanent residence. Amends 312 IAC 9-1-12 to specify possession of live and dead wild animals. Adds 312 IAC 9-1-12.5 to define the term processed. Amends 312 IAC 9-2-8 to define possession limits for wild animals that are taken. Amends 312 IAC 9-4-7.5 governing the possession limit for nonmigratory gamebirds. Amends 312 IAC 9-5-6 to establish a season for taking reptiles and amphibians, including turtles, and establishes a limit to the number that can be taken from the wild and possessed. Effective thirty days after filing with the Publisher.

312 IAC 9-1-11.8  
312 IAC 9-1-12  
312 IAC 9-1-12.5  
312 IAC 9-2-8  
312 IAC 9-4-7.5  
312 IAC 9-5-6

**SECTION 1. 312 IAC 9-1-11.8 IS ADDED TO READ AS FOLLOWS:**

**312 IAC 9-1-11.8 "Permanent residence" defined**

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

**Sec.11.8. Permanent residence means an individual's principal or ordinary home or dwelling place. This does not include an individual's temporary abode or dwelling such as a hunting/fishing/shooting club, or any:**

- (1) Clubhouse;**
- (2) Cabin;**
- (3) Tent;**
- (4) Vehicle; or**
- (5) Trailer house;**

**used as a fishing/hunting/shooting club, or any:**

- (1) Hotel;**
- (2) Motel; or**
- (3) Rooming house of any kind;**

**used during a hunting, fishing, pleasure or business trip.**

**SECTION 2. 312 IAC 9-1-12 IS ADDED TO READ AS FOLLOWS:**

**312 IAC 9-1-12 "Possession" defined**

Authority: IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22

Sec. 12. "Possession" means:

- (1) to have direct physical control or to knowingly have the power and the intention to exercise dominion or control **for wild animals that are not alive; and**
- (2) **to knowingly have the power and intention of keeping a live wild animal in captivity where it cannot escape into the wild.** (*Natural Resources Commission; 312 IAC 9-1-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2699; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286*)

**SECTION 3. 312 IAC 9-1-12.5 IS ADDED TO READ AS FOLLOWS:**

**312 IAC 9-1-12.5 “Processed” defined**

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. “Processed” means wild animals that have been:

- (1) **Cut, wrapped, and frozen;**
- (2) **Dried;**
- (3) **Smoked;**
- (4) **Canned (in tins or jars);**
- (5) **Vacuum packed; or**
- (6) **Otherwise preserved for long term storage and later consumption.**

**SECTION 4. 312 IAC 9-2-8 IS AMENDED TO READ AS FOLLOWS:**

**312 IAC 9-2-8 Possession restrictions where bag limit established**

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 8. (a) An individual must not:

- (1) possess;
- (2) ship;
- (3) carry; or
- (4) transport;

more than ~~two (2) times~~ the ~~daily bag~~ **possession** limit of **the carcass of** a wild animal after the beginning of the second day of the season established to take that wild animal.

(b) An individual must not take more than the daily bag limit of a wild animal in a calendar day, **except as follows:**

- (1) white-tailed deer may be taken as authorized in 312 IAC 9-3-4;**
- (2) wild turkeys may be taken as authorized in 312 IAC 9-4-11.**

(c) An individual must tag a wild animal with the following information if the individual does not maintain possession of the animal that he or she has taken:

- (1) The individual’s name and address.
- (2) The total number and species of wild animals taken.
- (3) The date the wild animal was taken.
- (4) The signature of the individual who took the animal.

(d) Notwithstanding subsection (c), an individual must tag a:

- (1) white-tailed deer in accordance with section 3 of this rule; and
- (2) wild turkey in accordance with 312 IAC 9-4-11.

(e) “Possession Limit” means twice the daily bag limit of the carcass of a wild animal that may be possessed while afield, in camp, in transit, or otherwise prior to the species being processed and stored at the permanent residence. The possession limit of a processed wild animal at an individual’s personal permanent residence, except for waterfowl and migratory game birds, is not limited.

**SECTION 5. 312 IAC 9-4-7.5 IS AMENDED TO READ AS FOLLOWS:**

**312 IAC 9-4-7.5 General requirements for nonmigratory game birds**

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 7.5. (a) An individual must not possess the carcass or parts of a ring-necked pheasant (*Phasianus colchicus*), northern bobwhite quail (*Colinus virginianus*), ruffed grouse (*Bonasa umbellus*), or wild turkey (*Meleagris gallopavo*) unless that ~~person~~ **individual** lawfully took that species:

- (1) during the season established for that species in this rule;
- (2) with a scientific purposes license under 312 IAC 9-10-6; or
- (3) with a special purpose salvage permit under 312 IAC 9-10-13.5.

(b) Notwithstanding subsection (a), an individual who lawfully takes a game bird listed under this section may give to another individual one (1) or more carcasses or parts of these game birds, with no compensation of any kind. A game bird that is gifted must have a tag attached that contains the following information:

- (1) The hunter's name and address.
- (2) The total number and species of birds taken.
- (3) The date the birds were taken.
- (4) The signature of the hunter who took the birds.

(c) A carcass of a game bird listed under this section may be possessed by any of the following:

- (1) The individual who lawfully took the bird during the season established for that bird.
- (2) An individual who received the carcass under subsection (b).
- (3) An individual with a valid taxidermy license under IC 14-22-21 and 312 IAC 9-10-5.
- (4) An individual with a valid scientific purposes license under 312 IAC 9-10-6.
- (5) An individual with a valid nuisance wild animal control permit under 312 IAC 9-10-11.
- (6) An individual with a valid special purpose salvage permit under 312 IAC 9-10-13.5.

(d) A person may possess live northern bobwhite quail or ring-necked pheasants only:

- (1) with a game breeder license under IC 14-22-20 and 312 IAC 9-10-4;
- (2) with a dog training ground permit under 312 IAC 9-10-16 for a period of less than five (5) consecutive days only;
- (3) with a private shooting preserve license under IC 14-22-31;
- (4) with a scientific purposes license under 312 IAC 9-10-6;
- (5) with a wild animal rehabilitation permit under 312 IAC 9-10-9; or
- (6) if purchased from a licensed game breeder and released into the wild within five (5) days of taking possession of the birds.

(e) An individual must not hunt any of the following species unless the individual wears hunter orange:

- (1) Ring-necked pheasants (*Phasianus colchicus*).
- (2) Northern bobwhite quail (*Colinus virginianus*).
- (3) Ruffed grouse (*Bonasa umbellus*).

(f) A person must not sell northern bobwhite quail or ring-necked pheasants, including their eggs, except under a valid game breeder license under IC 14-22-20 and 312 IAC 9-10-4.

(g) A person must not sell ruffed grouse or wild turkeys, including their eggs.

(h) A person must not possess ruffed grouse or wild turkeys, including their eggs, except under one (1) of the following:

- (1) A wild animal rehabilitation permit under 312 IAC 9-10-9.
- (2) A scientific purposes license under 312 IAC 9-10-6.
- (3) A special purpose salvage permit under 312 IAC 9-10-13.5.
- (4) A taxidermy license under IC 14-22-21 and 312 IAC 9-10-5.

(i) An individual must not:

- (1) possess;
- (2) ship;
- (3) carry; or
- (4) transport;

more than ~~two (2) times~~ the ~~daily bag~~ **possession** limit of a carcass of a game bird listed under this section after the beginning of the second day of the season established to take that bird in this rule.

(j) An individual may take, possess, and sell a species of quail, pheasant, or partridge that is not:

- (1) an endangered species; or
- (2) a species listed in subsection (a);

at any time without a license from the department. (*Natural Resources Commission; 312 IAC 9-4-7.5; filed Mar 12, 2010, 1:28 p.m.:20100407-IR-312090479FRA*)

#### **SECTION 6. 312 IAC 9-5-6 IS AMENDED TO READ AS FOLLOWS:**

##### **312 IAC 9-5-6 Collection and possession of reptiles and amphibians native to Indiana**

Authority: IC 14-22

Affected: IC 14-22

Sec. 6. (a) An individual may take reptiles or amphibians from the wild only as authorized under this section.

(b) Except as provided in this section, an individual must not take **more than two (2) per day** ~~or possess~~ **and not** more than four (4) **from April 1 through March 31 of the following year** of any **one** species of reptile or amphibian native to Indiana.

(c) Notwithstanding subsection (b), an individual may take not more than twenty-five (25) of the following species of turtles per day, singly or in aggregate:

- (1) Eastern snapping turtle (*Chelydra serpentina serpentina*).
- (2) Smooth softshell turtle (*Apalone mutica*).
- (3) Spiny softshell turtle (*Apalone spinifera*).

~~An individual may possess not more than~~ **The possession limit is** fifty (50) turtles listed in this subsection, singly or in aggregate.

(d) Notwithstanding subsection (b), an individual may take not more than twenty-five (25) of the following species of frogs **per day**, singly or in aggregate:

- (1) American bullfrog (*Lithobates catesbeianus*).

(2) Green frog (*Lithobates clamitans*).

~~An individual may possess not more than~~ **The possession limit is** fifty (50) frogs listed in this subsection, singly or in aggregate.

**(e) An individual must not possess more than four (4) live reptiles or amphibians of any one species native to Indiana, except an individual may possess live no more than fifty (50) of each of the following species:**

- (1) Eastern snapping turtle (*Chelydra serpentina serpentina*).**
- (2) Smooth softshell turtle (*Apalone mutica*).**
- (3) Spiny softshell turtle (*Apalone spinifera*).**
- (4) American bullfrog (*Lithobates catesbeianus*).**
- (5) Green frog (*Lithobates clamitans*).**

~~(e)-(f)~~ **(f)** An individual may take turtles at any time of the year.

~~(f)~~ **(g)** An individual may take frogs as established in subsection (d) from June 15 through April 30 of the following year.

~~(g)~~ **(h)** An individual may take turtles by any of the following methods:

- (1) A trap, a net, or another mechanical device that has no opening below the surface of the water.
- (2) Hands.
- (3) A gaff.
- (4) Any method provided by 312 IAC 9-7-2 for sport fishing.

~~(h)~~ **(i)** An individual may take frogs by any of the following methods:

- (1) A gig or spear having a head not more than three (3) inches wide and a single row of tines.
- (2) A bow and arrows.
- (3) A club.
- (4) Hands.
- (5) A single pole or hand line with not more than one (1) hook or artificial lure affixed.
- (6) A .22 caliber firearm, as long as the projectiles discharged from the barrel of the firearm are birdshot.

~~(i)~~ **(j)** An individual may use:

- (1) a spotlight;
  - (2) a searchlight; or
  - (3) another artificial light;
- to assist in taking frogs.

~~(j)~~ **(k)** Notwithstanding subsection (c) **and (e)**, an individual must not take the following from the wild:

- (1) A reptile or amphibian egg.
- (2) An eastern box turtle (*Terrapene carolina*).
- (3) An endangered species of reptile or amphibian.**

~~(k)~~ **(l)** An individual must not sell a reptile or amphibian ~~taken from the wild~~, except for the following:

- (1) A reptile or amphibian lawfully possessed and fitted with a passive integrated transponder under section 9(h) of this rule.
- (2) A bullfrog or green frog tadpole in accordance with section 7(g) of this rule.

~~(l)~~ **(m)** An individual must not sell the offspring of an amphibian taken under this section.

~~(m)~~ **(n)** An individual possessing a valid reptile captive breeder license issued under section 9 of this rule may sell the offspring of a species of snake listed in section 9 of this rule, taken under this section, to any person.

~~(n)~~ **(o)** An individual must not release back into the wild a reptile or amphibian taken from the wild under this section except as follows:

(1) A reptile or amphibian may be released without a permit issued under subsection (n)(2) *[subdivision (2)]* if the reptile or amphibian:

(A) has not been held in an enclosure with another reptile or amphibian;

(B) has not been in captivity for more than thirty (30) days; and

(C) is released at the point of capture.

(2) The division issues a permit to an individual to release an animal, and the individual releases the animal under the terms of the permit.

~~(o)~~ **(p)** An individual may possess a live eastern box turtle only with a:

(1) turtle possession permit under section 11 of this rule;

(2) wild animal rehabilitation permit under 312 IAC 9-10-9; or

(3) scientific purposes license under 312 IAC 9-10-6.

~~(p)~~ **(q)** An individual may possess a live endangered species of reptile or amphibian only with a:

(1) wild animal possession permit under 312 IAC 9-11;

(2) wild animal rehabilitation permit under 312 IAC 9-10-9; or

(3) scientific purposes license under 312 IAC 9-10-6.

~~(q)~~ **(r)** An individual may possess a live venomous reptile only with a:

(1) wild animal possession permit under 312 IAC 9-11; or

(2) scientific purposes license under 312 IAC 9-10-6.

*(Natural Resources Commission; 312 IAC 9-5-6; filed Jul 9, 1999, 5:55 p.m.: 22 IR 3672; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 543; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Jul 6, 2010, 1:55 p.m.: 20100804-IR-12090616FRA)*